IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8487 OF 2006

Mrs. Shalini Vitthalrao Kibe
Since deceased and ors. ..Petitioners

Vs.

Prabhat Theaters Private Ltd.
and anr. ..Respondents

Mr. V.G. Mujumdar for petitioners.
Mr. Y.S. Jahagirdar, Senior Counsel with Mr. S.S. Kanetkar for respondent no.1.

CORAM: B.H. MARLAPALLE, J.

Date : March 29, 2007.

P.C.:

1. Heard Mr. Mujumdar the learned counsel for the petitioners and Mr. Jahagirdar the learned Senior Counsel with Mr. Kanetkar for respondent no.1.

2. This petition under Article 227 of the Constitution arises from the order dated 20/9/2006 passed in Civil Appeal No. 523 of 2004 thereby allowing the applications at Exhs.18 and 21 filed by the appellants.

3. It is evident from the perusal of the order that the present petitioners and their advocate were absent when the applications at Exhs.18 and 21 came to be allowed. Interest of justice will be better served if the applications are restored to the file of the Lower Appellate Court and both the parties are given an opportunity of presenting their case afresh and thereafter the applications are decided.

4. Hence the impugned orders are set aside and the applications at Exhs. 18 and 21 are restored to the file in Civil Appeal No. 523 of 2004. The respective parties will appear before the Lower Appellate Court on 16/4/2007 and both of them shall be heard on these two applications. The learned Judge of the Lower Appellate Court to proceed to decide the said applications after hearing both the sides on 16/4/2007 and the order on the applications be passed preferably within two weeks from 16/4/2007.

(B.H. Marlapalle,J.)